

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Muhammad Al-Majahidin, a/k/a or f/k/a John Hamilton,	)	C/A No. 9:18-1163-BHH
	)	
Plaintiff,	)	
	)	<b>ORDER AND OPINION</b>
vs.	)	
	)	
Michael McCall, Meagan Harris, Daniel Harouff, David Tartarsky, J. Scarborough,	)	
	)	
	)	
Defendants.	)	

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This matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Bristow Marchant made in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02 for the District of South Carolina. On August 8, 2018, the Magistrate Judge issued a Report and Recommendation (“Report”) recommending that Plaintiff’s complaint be dismissed without prejudice and without issuance of service of process for failure to exhaust administrative remedies. (See ECF No. 19.) See *also* 42 U.S.C. § 1997e(a) (“No action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.”). Objections to the Report were due by August 27, 2018. Neither Defendants nor Plaintiff have filed any objections.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report

of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). In the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

After a careful review of the record, the applicable law, and the Report of the Magistrate Judge, the Court finds no error and adopts the Report. It is therefore

**ORDERED** that this action is DISMISSED *without prejudice* for failure to failure to exhaust administrative remedies.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks  
United States District Judge

October 11, 2018  
Greenville, South Carolina

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#### **NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.